

ESTTA Tracking number: **ESTTA374667**

Filing date: **10/22/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91196451
Party	Defendant Absopure Water Company
Correspondence Address	ELIZABETH F JANDA BROOKS KUSHMAN PC 1000 TOWN CTR FL 22 SOUTHFIELD, MI 48075-1183 UNITED STATES
Submission	Answer
Filer's Name	Elizabeth F. Janda
Filer's e-mail	ejanda@brookskushman.com, ejbrooks@brookskushman.com
Signature	/elizabeth f janda/
Date	10/22/2010
Attachments	Answer Envirofresh.pdf (4 pages)(82929 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MICHAEL BRANDT FAMILY TRUST)
d/b/a ECO-FRESH INDUSTRIES, INC.,)
)
 Opposer,)
)
v.)
)
ABSOPURE WATER COMPANY,)
)
 Applicant,)

Serial No. 77/867,220

Opposition No. 91196451

ANSWER TO NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Applicant, Absopure Water Company, a Michigan corporation having a place of business at 41605 Ann Arbor Road, Plymouth, Michigan 48170, Answers the Notice of Opposition as follows:

1. Applicant is without sufficient information to admit or deny the allegations of paragraph 1 and leaves Opposer to its proofs.
2. Applicant is without sufficient information to admit or deny the allegations of paragraph 2 and leaves Opposer to its proofs.
3. Applicant is without sufficient information to admit or deny the allegations of paragraph 3 and leaves Opposer to its proofs.
4. Applicant is without sufficient information to admit or deny the allegations of paragraph 4 and leaves Opposer to its proofs.

5. Applicant is without sufficient information to admit or deny the allegations of paragraph 5 and leaves Opposer to its proofs.

6. Denied.

7. Denied.

8. Applicant admits that it made no use of ENVIROFRESH on the goods designated in Application Serial No. 77/867,220 prior to November 6, 2009. Applicant is without sufficient information to admit or deny the remainder of paragraph 8, and leaves Opposer to its proofs.

9. Denied.

AFFIRMATIVE DEFENSES

1. Opposer did not timely file an extension of time to oppose this application.

2. Opposer lacks standing to file this opposition, since it is not the party who filed the extension of time to oppose.

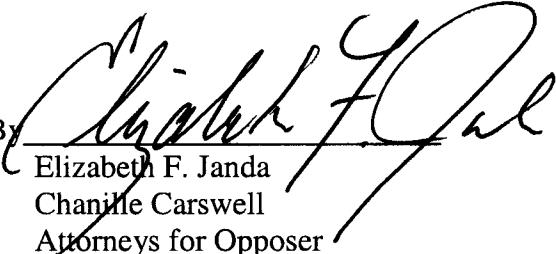
3. There is no likelihood of confusion because the goods of the Applicant are noncompetitive and are unrelated to the goods of the Opposer.

4. There is no likelihood of confusion because the mark ENVIROFRESH is substantially different from the asserted mark ECOFRESH in the relevant marketplace.

WHEREFORE, Applicant requests that the Board dismiss Opposer's Notice of Opposition in its entirety with prejudice, and allow Applicant's application for ENVIROFRESH to proceed to registration.

Respectfully submitted,

By


Elizabeth F. Janda
Chanille Carswell
Attorneys for Opposer

Date: October 22, 2010

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF SERVICE

I certify that I served:

ANSWER TO NOTICE OF OPPOSITION

on October 22, 2010 by:

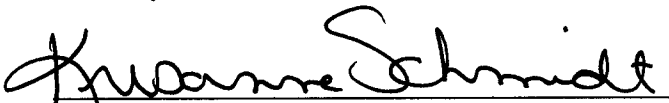
— delivering (via facsimile at _____)
(via overnight courier for delivery on _____)
(via email: _____@_____)

X mailing (via First-Class mail)

a copy to:

Barth X. DeRosa
Dickinson Wright PLLC
1875 Eye Street NW, Suite 1200
Washington, DC 20006

Attorneys for Opposer


Krisanne Schmidt